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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5872

11 **NICHOLAS BOWENS, aka**  
12 **NICHOLAS JONATHAN BOWENS**  
13 **5708 Vineland Ave.**  
**North Hollywood, CA 91601**

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
15 **62120**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about September 1, 2005, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 62120 to Nicholas Bowens, aka Nicholas Jonathan Bowens  
23 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the following  
27 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
28 indicated.



1           8.    Section 4301 of the Code states, in pertinent part:

2           "The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
4 not limited to, any of the following:

5           . . . .

6           “(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
7 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
8 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
9 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
10 practice authorized by the license.”

11          . . . .

12          “(j) The violation of any of the statutes of this state, or any other state, or of the United  
13 States regulating controlled substances and dangerous drugs.

14          . . . .

15          “(k) The conviction of more than one misdemeanor or any felony involving the use,  
16 consumption, or self administration of any dangerous drug or alcoholic beverage, or any  
17 combination of those substances

18          . . . .

19          “(l) The conviction of a crime substantially related to the qualifications, functions, and  
20 duties of a licensee under this chapter. . . .

21          . . . .

22          “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
23 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
24 federal and state laws and regulations governing pharmacy, including regulations established by  
25 the board or by any other state or federal regulatory agency. . . .”

26          “(p) Actions or conduct that would have warranted denial of a license. . . .”

27  
28

1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 **COST RECOVERY**

10 10. Section 125.3 provides that the Board may request the administrative law judge to  
11 direct a licentiate found to have committed a violation or violations of the licensing act to pay a  
12 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with  
13 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a  
14 case settles, recovery of investigation and enforcement costs may be included in a stipulated  
15 settlement.

16 **STATE DRUG STATUTES**

17 11. Section 4022 of the Code prohibits the dispensing or furnishing of a dangerous drug  
18 or dangerous device, which is any drug or device that is unsafe for self-use in humans or animals,  
19 without a prescription or as legally authorized.

20 12. Health and Safety Code section 11007 states that "controlled substance" unless  
21 otherwise specified, means a drug, substance, or immediate precursor which is listed in any  
22 schedule in Section 11054, 11055, 11056, 11057, or 11058.

23 13. Health and Safety Code section 11377, subdivision (a), states, in part, that:

24 "Except as authorized by law and as otherwise provided in subdivision (b) or Section  
25 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the  
26 Business and Professions Code, every person who possesses any controlled substance which is ...  
27 (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a  
28 physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished

1 by imprisonment in a county jail for a period of not more than one year or in the state prison.”

2 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

3 14. Cocaine Metabolite - Cocaine, and any cocaine base, is a narcotic drug according to  
4 Health and Safety Code section 11019(e). It is a Schedule I controlled substance, as designated in  
5 Health and Safety Code section 11054(f)(1), and a Schedule II controlled substance, as designated  
6 in Health and Safety Code section 11055(b)(6). It is categorized as a dangerous drug according to  
7 Business and Professions Code section 4022.

8 15. Methamphetamine is a Schedule II controlled substance as designated by Health and  
9 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
10 Business and Professions Code section 4022.

11 16. Opiates are Schedule I controlled substances pursuant to Health and Safety Code  
12 section 11054, subdivision (a)(b), and a dangerous drug pursuant to section 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Conviction of a Substantially Related Crime)**

15 17. Respondent is subject to disciplinary action under Code sections 4300 and 4301,  
16 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the  
17 grounds of unprofessional conduct, in that Respondent was convicted of a crime, which is  
18 substantially related to the qualifications, functions, or duties of a pharmacy technician, as  
19 follows:

20 a. On or about July 19, 2016, Respondent, after entering a plea of nolo contendere, was  
21 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (e)  
22 [driving while under the influence of drugs], in the criminal proceedings entitled *The People of*  
23 *the State of California v. Nicholas Jonathan Bowens* (Super. Ct. Los Angeles, 2016, No.  
24 6VV01448). The court sentenced Respondent 3 years of summary probation, ordered  
25 Respondent to enroll in a 3-month First Offender drug education and counseling program and  
26 enroll in a 52-week parenting skills program. Respondent was also ordered to pay fines, fees, and  
27 restitution and perform community labor.



1 oneself and to the public, as further described in paragraph 17, above.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(Violating Pharmacy Law / Acts Warranting Denial of Licensure)**

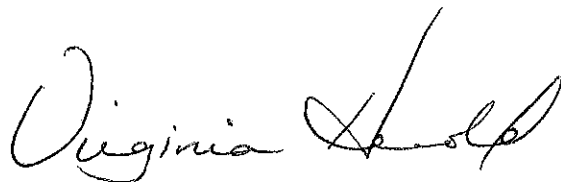
4 20. Respondent is subject to disciplinary action under Code section 4301, subdivisions  
5 (o) and (p), on the grounds of unprofessional conduct, in that Respondent committed acts  
6 violating the Pharmacy Law and/or federal and state laws that would have warranted denial of a  
7 license. Complainant refers to and by this reference incorporates the allegations set forth above  
8 in paragraph 17, inclusive, as though set forth fully.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board of Pharmacy issue a decision:

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 62120,  
13 issued to Respondent Nicholas Bowens, aka Nicholas Jonathan Bowens;
- 14 2. Ordering Respondent Nicholas Bowens, aka Nicholas Jonathan Bowens to pay the  
15 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,  
16 pursuant to Business and Professions Code section 125.3; and,
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18
- 19

20  
21 DATED: 5/15/17



22 **VIRGINIA HEROLD**  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 *Complainant*

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